
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

☐ All Child Care Evaluator Manual Holders
☒ All Residential Care Evaluator Manual Holders
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Transmittal No.
06APX-18

Date Issued

December 2006

Subject:

2006 Chaptered Legislation

Appendix A

**Adult Community Care Facilities and
Residential Care Facilities for the Chronically Ill**

Reason For Change:

This transmits summaries of legislation chaptered in 2006 affecting Adult Community Care Facilities and Residential Care Facilities for the Chronically Ill. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 2007.

Filing Instructions:

Insert the attached pages into Appendix A. Do not remove similar documents from the previous years.

Approved:

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12/26/06

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SUMMARY AND IMPLEMENTATION PLANS 2006 CHAPTERED LEGISLATION

ADULT RESIDENTIAL FACILITIES AND RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

BILL NUMBER/AUTHOR	SUBJECT	PAGE
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ACTION REQUIRED

AB 2675/Strickland	Community Care Facilities (and RCFEs): Continuing Education: Online Courses for Administrator Certification Training	1
SB 1759/Ashburn	Post-Licensing Visits	2

INFORMATION ONLY – NO ACTION REQUIRED

AB 2184/Bogh	Residential Facilities: land use regulations	5
AB 2968/Leno	Medi-Cal: Community-Living Support Benefit	5
AB 2977/Mullin	Swimming Pool and Spa Safety	6
SB 144/Runner	Safety of Food in Retail Food Facilities	6
SB 1128/Alquist	Sex Offender Punishment, Control and Containment Act of 2006	7
SB 1451/Kehoe	Emergency Preparedness: People with Disabilities	8

Unless otherwise noted, all new legislation becomes effective on January 1, 2007. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 2675 (Strickland), CHAPTER 421, STATUTES OF 2006

Affects: Group Homes (GHs), Adult Residential Facilities (ARFs), and Residential Care Facilities for the Elderly (RCFEs)

Subject: Community Care Facilities (and RCFEs) Continuing Education: Online Courses for Administrator Certification Training

Summary: AB 2675 amends Health and Safety Code Sections 1522.41 (pertaining to GHs), 1562.3 (pertaining to ARFs), and 1569.616 (pertaining to RCFEs) relating to continuing education for administrators.

For GHs and ARFs, AB 2675 adds the following provisions to statute, which mirror existing RCFE statutory provisions:

- Up to one-half of the required 40 hours of continuing education for administrators may now be satisfied through an online course(s). (Previously, all of the required 40 hours had to be classroom hours.)
- Licensing representatives may inspect certification training programs and continuing education courses, including online courses, *at no charge to the Department*. In other words, a vendor cannot charge a licensing representative(s) who attends a course(s) for the purpose of ensuring that the course(s) complies with regulations.
- A vendor of online programs for continuing education must ensure that each online course meets the following criteria:
 - Contains an interactive portion.
 - Requires the use of a personal identification number or personal identification information.
 - Has a final screen displaying a printable statement, to be signed by the participant, certifying that the participant completed the course. Vendors must keep a copy of the signed statement of completion for three years and make it available to the Department upon demand. Any person who certifies information that he/she knows to be false is guilty of a misdemeanor.

For GHs, ARFs and RCFEs, this legislation clarifies that *all other continuing education hours for administrators must be completed in a classroom setting*.

Implementation: These provisions have an effective date of January 1, 2007. These provisions are self-implementing; however, regulations may be developed.

ACTION REQUIRED

SB 1759 (Ashburn), CHAPTER 902, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (RCFEs), Residential Care Facilities for the Chronically Ill (RCFCIs), Community Care Facilities (CCFs) except Foster Family Homes (FFHs)

Subject: Post-Licensing Visits

Summary: This bill amends Health and Safety (H&S) Code Sections 1526.5 (pertaining to CCFs), 1568.07 (pertaining to RCFCIs), and 1569.24 (pertaining to RCFEs) to require that post-licensing inspections of RCFEs, RCFCIs, and CCFs (except FFHs) be conducted within 90 days after a facility accepts its first client or resident. (Previously, post-licensing visits had to be conducted within 90 days after the date the license was issued.) This bill also requires the licensee to notify the Department, within five business days after a facility accepts its first client or resident that the facility is operating.

In addition, this bill makes significant changes to the background check processes of the departments of Health Services, Developmental Services, Mental Health, and the Emergency Medical Services Authority. This bill also amends Section 9719 of the Welfare and Institutions Code (pertaining to long term care facilities) to require CDSS to conduct criminal record clearances for ombudsmen, contingent upon budgetary allowance. These provisions do not affect facilities licensed by the Community Care Licensing Division.

Implementation:

Note: These statutory requirements are effective January 1, 2007. Regulations are not needed, but may be amended to reference these changes under Inspection Authority. If a facility is not in compliance with the provisions of this law, cite either H&S Code Section 1526.5, 1568.07, or 1569.24.

Process:

1. The need to inform new applicants:
 - During the Component III session of the new applicant orientation, the Department shall inform applicants of the following:

Beginning January 1, 2007, the Department shall conduct post-licensing visits within 90 days after a newly licensed facility accepts its first client or resident for placement.

Beginning January 1, 2007, a licensee of a newly licensed facility must notify the Department, within five business days after the facility accepts its first client or resident for placement, that the facility has started operating. Such notification should be made to the LPA either by

telephone, fax or email. The Department then prepares to conduct an unannounced post-licensing visit.

2. The need for procedural changes:

Currently, the automated system generates a monthly LIS 867 Visit-Due Report stating when a post-licensing visit is due. This visit can only be conducted after a newly licensed facility has accepted its first client or resident for placement. If, at the time the Visit-Due Report is generated, the Department has not been notified of the acceptance of any client or resident for placement, the following procedures should be implemented:

- The LPA should place a telephone call to the facility to determine whether any client or resident has been placed.
- If at any time after licensure the LPA has reason to believe that the facility has accepted a client or resident, they should follow-up to verify the information.
- If the information from the telephone contact indicates that the facility has accepted a new client or resident, the LPA should document this information on the LIC 185 Contact Sheet. The LPA shall determine the date of placement of the new client/resident and shall conduct a post-licensing visit within 90 days of this date of placement.
- If the licensee sends an email, letter or fax to the LPA stating they have accepted their first client/resident, a copy shall be placed in the facility file. If the licensee contacts the LPA via telephone stating they have accepted their first client/resident, the contact should be documented on the LIC 185 Contact Sheet.
- If the facility has failed to comply with the five-day notification requirement, the LPA shall issue a Type A citation per H&S Code Sections 1526.5, 1568.07, or 1569.24 during the post-licensing visit.
- If the information from the telephone contact indicates that the facility has not accepted a new client or resident, the LPA should document this information using the LIC 185 Contact Sheet. The LPA should continue to contact the facility at 90-day intervals until notified of the date of the first client or resident placement. This is the date from which the LPA has 90 days to conduct the post-licensing visit.

Note:

1. The Department may exercise discretion as to how often to continue the contacts to the facility at subsequent 90-day intervals.
2. The Department has the authority to conduct case management visits at any time.
3. **For the licensee who completed the Component III session of the orientation prior to January 1, 2007**, the LPA shall notify the licensee at the time the Visit-Due Report is generated and advise him/her of the five-day notification requirement. The LPA should document this information using the

LIC 185 Contact Sheet. If the licensee has accepted residents/clients prior to the LPA notification, no citation shall be issued.

4. All information related to LPA and Licensee contacts should be documented on an LIC 185 Contact Sheet with paper copies placed in the facility file.

INFORMATION ONLY – NO ACTION REQUIRED

AB 2184 (Bogh), CHAPTER 746, STATUTES OF 2006

Affects: Residential facilities that serve six or fewer residents

Subject: Residential Facilities: land use regulations

Summary: This bill amends Section 1566.3 of the Health and Safety (H&S) Code. As amended, this Section provides that nothing in existing law may be construed to prohibit or limit the ability of a local public entity from fully enforcing a local ordinance(s). This includes, but is not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section (H&S 1566.3).

This bill does not provide a local public entity with any additional authority to enforce a local ordinance(s).

AB 2968 (Leno), CHAPTER 830, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (RCFEs), Adult Residential Facilities (ARFs)

Subject: Medi-Cal: Community-Living Support Benefit

Summary: This new law requires the California Department of Health Services to develop and implement a program to provide a community-living support benefit to eligible Medi-Cal beneficiaries in San Francisco who would otherwise be homeless, living in a shelter, or institutionalized. The benefit would provide reimbursement for an array of health-related and psychosocial services, including assisted-living services (for example, assistance with dressing, eating, bathing, grooming, mobility, and related tasks). Beneficiaries would be able to remain in the most homelike environment possible, such as RCFEs, potentially ARFs, and publicly funded senior or disabled housing. AB 2968 will only be implemented if the City and County of San Francisco make county funds available to match federal funds.

AB 2977 (Mullin), CHAPTER 478, STATUTES OF 2006

Affects: Single Family Homes; Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

Subject: Swimming Pool and Spa Safety

Summary: AB 2977 states that, effective January 1, 2007, one of seven drowning prevention measures must be followed before a building permit may be issued for a new pool or spa.

These are:

- Pool enclosure
- Safety pool cover
- Exit alarms on doors providing direct access to the pool or spa
- Self-closing, self-latching doors with direct access to the pool or spa
- Other means equal or better than the previous items.
- Removable mesh fencing meeting ASTM standards- (new for 2007)
- Pool alarms meeting ASTM standards- (new for 2007)

Also, any modification to an existing pool or spa must include an upgrade to anti-entrapment suction outlet standards as set for the ASTM.

State Department of Health Services is to have this information on its web site by January 1, 2007.

Local building officials shall inspect drowning safety prevention devices on pools and spas and give final approval when standards are met.

Implementation of AB 2977:

No Action Necessary. This bill does not change the requirements currently established in regulations.

SB 144 (Runner), CHAPTER 23, STATUTES OF 2006

Affects: The following are exempt until appropriations are made available to develop new food service regulations: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

Subject: Safety of Food in Retail Food Facilities

Summary: This new law repeals the California Uniform Retail Food Facilities Law (CURFFL) in the Health and Safety Code (Part 7, beginning with Section 113700 of

Division 104) and, in the place of CURFFL, creates the California Retail Food Code (CRFC) to improve the safety of food in retail food facilities. This law exempts facilities (from the CRFC) that are licensed by the California Department of Social Services (CDSS), including residential care facilities for the elderly, residential care facilities for the chronically ill, community care facilities, and child care facilities. However, it requires the CDSS to develop new food service regulations that would carry out the intent of the CRFC, if and when a specific appropriation is made available for that purpose.

SB 1128 (Alquist), CHAPTER 337, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Adult Residential Facilities, Social Rehabilitation Facilities, Adult Residential Facilities for Persons with Special Health Care Needs, Adult Day Programs

Subject: Sex Offender Punishment, Control, and Containment Act of 2006

Summary: SB 1128 adds Section 653c to the Penal Code. This section adds to the list of offenses posted on the Megan's Law website (<http://meganslaw.ca.gov/>) for a sex offender who is required to register for an offense committed against an elder or dependent adult, the crime of loitering or trespassing on an elder or dependent care facility. This type of sex offender is not allowed to enter or remain on the grounds of a "day care or residential facility" where elders or dependent adults¹ are regularly present or living, unless he/she first registers with the facility administrator. The penalty for failing to register is a fine, imprisonment, or both.

This type of registered sex offender must advise the administrator that he/she is a registered sex offender. The offender must provide the administrator with his/her name, address, and proof of identity. The offender must explain his/her purpose for entering the facility or grounds.

The administrator may refuse to register, or may impose restrictions on or revoke the registration of, the offender if the administrator has a reasonable basis for concluding that the sex offender's presence would:

- Disrupt the facility, any resident, employee, or visitor; or
- Interfere with the orderly and peaceful activities of the facility; or
- Otherwise place at risk the facility, or any employee, volunteer or visitor.

The provisions of this bill do not apply to a current resident or client who is a registered sex offender.

¹ Section 368 of the Penal Code states, in part, that "'elder' means any person who is 65 years of age or older;" and that a "'Dependent Adult' means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age...[and]includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility..."

SB 1451 (Kehoe), Chapter 600, Statutes of 2007

Affects: This bill relates to vulnerable populations in the following licensing categories: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Adult Residential Facilities, Adult Day Programs, and Social Rehabilitation Facilities

Subject: Emergency Preparedness: People with Disabilities

Summary: Following 9/11 and Katrina, this new law was enacted to ensure that the special needs of people with disabilities and the frail elderly are included in California's plans for responding to disasters and emergencies. To accomplish this goal, SB 1451 requires the Governor's Office of Emergency Services (OES) to appoint representatives of people with disabilities to relevant OES committees. OES must submit a related report to the Legislature on or before January 1, 2009.